

# In the Absence of a Law to Protect Their Rights, Israeli Students with Learning Disabilities Fall Between the Cracks

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One of the basic principles of Israel's educational system is the natural right of every person for equal rights. It is society's duty to create the conditions that will enable the realization of this right in order to allow people to realize their full potential. In modern technological society, realization of one's full potential means more than the acquisition of basic education; it also means access to higher education that provides general knowledge as well as expertise in specific areas so as to guarantee the integration of the individual in competitive society.

The principle of equal opportunity in education led to the establishment of a public educational system, which is open to all and which provides "equal education" to all students. However, the system is not sufficiently tuned to the unique skills and needs of certain individuals that are part of it. In 1949, Israel passed the first educational bill, which stipulates that every child in Israel, from the age of five to fourteen, has to attend an educational institute. The law was then expanded to cover the ages of five to sixteen years old. The fact that all the children of Israel have access to education is one of the great successes of the educational system.

In view of the increased awareness of individual rights, including the rights of people with special needs, and in view of the increased awareness of the importance of education in general and higher education in particular as an instrument for social progress, the educational system is required to provide a unique response for specific populations.

## **Students with learning disabilities**

Israel's pupil population is highly diversified as a result of differences in the economic, social and ethnic background, as well as because of differences in the skills and capabilities with which these pupils enter the educational system. As stated above, "equal education" often fails to provide the conditions that are necessary for some students to realize their potential, as

some pupils need more than the others need. This category consists of a broad variety of pupils who have learning difficulties due to a whole range of issues: educational shortage, cultural diversity, learning disability, emotional problems, physical limitations, health conditions and generally low cognitive ability. Of all of these groups, the struggle of the pupils with learning disabilities (LD) for recognition of their special needs is especially striking. Several factors have brought about this situation:

- Research advancements made in this area, which enable the detection of failures of specific cognitive mechanisms that make it difficult for these children to realize and express their potential;
- The inability of the educational system to adjust the instruction methods to the specific difficulties of these children as well as its inability to assess reliably and validly the true abilities of these children while circumventing the specific disability; and
- The vagueness of the definition of the learning disability syndrome, which brings pupil population with varied difficulties under one category. The success of organizations of parents of children with LD in their strife for recognition and support, which is reflected in prioritizing resources for these pupils, has encouraged additional pupil groups to push their way into this category in hope for support and assistance. To a large extent, this explains the significant rise in the number of pupils who claim to have LD and consequently demand assistance, support and special considerations in the examinations they take.

The educational system should regard this phenomenon as a symptom of the acute need for response to children with various types of needs that have not been identified or addressed throughout the years.

It should be noted that the various groups of pupils with difficulties may provide some explanation as to the source of the difficulty. However, in most cases, the observed difficulty of a given pupil stems from several concurrent factors. The System's ability to identify and distinguish the origin of the difficulty is usually undertaken through help and support in the class and observing the reaction to the planned intervention.

## **The Nitzan Association**

The Nitzan Association was founded in 1964 by volunteer parents of children with learning, adjustment and functioning disabilities. In those days, children with LD were placed in various special education frameworks together with pupils who suffer from other limitations. The teachers did not know what learning disability was or how to diagnose it. In the absence of a State body to address the issue, Nitzan has developed the first diagnostic batteries that help diagnosing children with LD and has trained teachers for didactic diagnosis and corrective teaching. The Ministry of Education licensed the teachers trained by Nitzan. The diagnostic batteries serve as the basis for normative kits which Nitzan is developing today in collaboration with MOFET. The follow-up and the A-Z Book of Norms kits were designed based on the work done with 1,600 children and provide a comparative criterion for setting

eligibility parameters for therapy and alleviations or adjustments of the examinations they sit to.

## **The Special Education Law**

The special education law was passed in 1988. For the first time in the history of Israel, it covered all the laws, regulations and procedures relating to the "special children's" right for special education. The law is important since it secures services and therapy under the responsibility of the State (the minister of education) and various other authorities. The amendment of the special education law of 2000 replaced the phrase "special child" with the term "child with special needs". The law has been through many changes during the years. As a result, children with serious LD had to special education classes together with pupils that suffer from other serious disabilities: medium to severe retardation, autistic, children with acute mental disorders, physically disabled children and sensorial deficit. Today, the special education frameworks are designed only for pupils with significant complex, and comprehensive problems in different functional areas that require professional intervention during most of the school day. Section D1 of the special education bill, "integration of children with special needs in the regular education system", which was passed in 2002, authorizes the integration committee in the ordinary school to determine the eligibility of pupils with special needs for additional special education hours as part of the integration program. This amendment also covers children with LD, but in fact, only a small percentage of these children receive treatment. The types of therapies available to children include corrective teaching, creative and expressive therapy and paramedical therapies. In addition, the law addresses the issue of Individual Education Programs (IEP), which in some cases is tailor made for the individual needs of the pupil, the role parents play in setting up the IEP and their right to appeal on the ruling of the integration committee.

## **Who is Authorized to Diagnose Learning Disabilities?**

As stated above, the Education Ministry licensed the didactic diagnosis specialists that were trained at Nitzan. Today, parents turn to Nitzan to find out whether their child has LD. Nitzan, in return, provides them with recommendations and guidance on helping their child, mainly with basic skills of reading, writing and arithmetic.

In 1997, the education ministry determined in the Director General circular that only educational psychologists are authorized to diagnose a child as having LD and the alleviations he or she will be entitled to in the matriculation exams. Didactic adjustments, including time extension or overlooking spelling mistakes can be applied to the matriculation exams also at the school's recommendation. According to this circular, a child that was not diagnosed as having LD by the middle of the 10th grade will not be entitled for adjustments.

This policy proved very detrimental to pupils with LD who sought to take their exams at a later stage let alone the requirement to undertake psychological diagnosis in order to establish the differential diagnosis of whether they suffer from a cognitive disability that results from low intelligence or from a mental problem. The psychological diagnosis did not

provide tools for appropriate education intervention such as an appropriate way for teaching reading or effective learning strategies.

## **The Margalit Committee**

The Margalit public committee was established in 1996 in response to pressures exerted by the parent organizations. The "Commission on the Realization of the Potential of Children with Learning Disabilities", or the Margalit Committee, so named after its chairwoman, Prof. Malka Margalit, considered the issue from a multi-disciplinary perspective, including the biological, psychological, social, educational and economic aspects. The underlying principle of the Committee's work was the basic, natural right for equal opportunity and the society's duty to create the condition for exercising this right. The Committee's recommendations were published in a report filed in June 1997 to then Minister of Education and Culture, Mr. Zvulun Hammer and then Minister of Science, Ze'ev B. Begin.

The Committee deliberated the distress of pupils with LD who were left with no response, their parents, who are helpless in view of this harsh reality, and the teachers, who were short of tools to address the issues. The Margalit Committee report proved to be the most important document among decision makers and professionals alike. In its report, the Committee listed a series of recommendations, of which the most important recommendation, which has the potential of changing the reality in Israel but had not been implemented yet, is the establishment of public diagnostic centers, which will diagnose pupils that have been referred to them according to clear publish criteria. The cost of the diagnosis will be covered by the State so as to protect equal opportunity and minimize gaps that result from socioeconomic differences. The Margalit Committee did not grapple with the issue of who will be authorized to diagnose pupils with LD. However, it does conclude that kindergarten and school teachers play a major role in identifying and providing the first line of care to pupils in need as well as refer them to the appropriate bodies for diagnosis.

## **The Supreme Court Ruling and the Director General's Circular**

A host of reasons motivated the parent organization to join forces with the Nitzan Association and the didactic diagnostic specialists in filing an appeal against the education ministry with the Supreme Court. The diagnostic specialists claimed they are entitled for the freedom of occupation, which is a basic law, and have won the appeal.

In 1999, the Supreme Court revoked previous circulars of the director general of the education ministry and ordered the education ministry to regulate the identity of the professionals that will diagnose children with LD according to a clear policy. During that time, I was summoned to the education ministry. One of my first tasks there was to phrase a director general circular that would obtain a consensus of the professionals, mainly didactic diagnostic specialists and educational psychologists. The new director general's circular placed heavy responsibility on the educational teams in the schools, the school principals and mainly on the educational consultants, who were charged with the responsibility of

coordinating the various aspects and bodies, but alas, had no sufficient training to meet the expectation.

The director general's circular, which was distributed to the schools in May 2000, stipulated the new policy of the education ministry. Among others, it said as follows:

- Learning disability can be detected at various stages of one's life.
- The Pedagogic Board is the authorized body to set forward alleviations in the matriculations examinations based on the findings of the diagnosis.
- It did not address the issue of who is authorized to diagnose LD and the types of diagnoses required for specific alleviations.

The implications of this policy became evident shortly afterwards. The public has become aware of LD and an increased number of pupils are being referred to diagnosis either as a result of school referral or at the initiative of their parents. Concurrently, the number of pupils diagnosed as having LD increases too. These pupils receive help and alleviations which help them achieve higher schooling accomplishments that reflect their true capabilities. Unfortunately, these pupils invariably come from higher socioeconomic levels and from affluent neighborhoods. The budget that the education ministry allocates for this issue is minimal and far from meeting the need. The higher expectations of pupils and parents for State help, on the one hand, and the absence of resources, tools and training, on the other hand result in tension and conflicts in the educational system for "deserting" the schools to come to grips with the problems on their own. The shortage is being filled with an outbreak of privately-owned diagnostic institutes, which open up all over the place. Consequently, most of the students who do benefit from alleviations are those whose parents can afford the private diagnosis.

## **The Proposed Law on the Rights of Children with Learning Disabilities in Regular Education**

Concurrently, parent organizations are promoting the proposed law on State-funded detection, diagnosis and treatment of pupils with LD in the regular educational system. The proposed law passed the first reading and is ready for the second and the third readings. The proposed law refers to pupils with LD and attempts to set forward their rights in the spirit of human dignity and liberty, while ensuring their needs are met as soon as possible through early detection, appropriate educational intervention and adjustments of the tests they have to take.

In 2003, the director general of the education ministry has issued an amendment to the May 2000 circular, in which it stressed the importance of early detection and intervention by schools as well as listed the alleviations and adjustments in a hierarchical order according to their impact on the validity and credibility of the tests: adjustments on levels A and B have to be cleared by the pedagogic board based on the recommendations of the diagnostic specialists (didactic diagnosis), while level C adjustments, which include the replacement of written

examination by a oral one and customized examination (from which certain parts are omitted according to the specific disability, e.g. diction theory in Hebrew language examination). To be entitled for these adjustments, a pupil has to obtain the recommendations of the pedagogic board, which are based on the recommendations of didactic diagnostic specialist, recommendations by an educational psychologist, and the approval of the district council that weights the findings and reasoning of the school.

In face of this reality, the educational system is required to introduce a comprehensive, systemic policy that will result in fair allocation of the scarce resources, even differential allocation, if need be. To this end, the regular and special education systems have to collaborate to ensure continuous treatment which is well coordinated and accounted for by all therapeutic bodies. Otherwise, pupils with LD will fall between the cracks. In addition, large scale action is required to augment the services currently provided in the periphery of Israel, which could serve as a model for institutionalized intervention by the system. Today, most of the activity in the periphery is done by associations that seek to fill the gaps of the formal educational system. For this reason, quick, vigorous action is necessary before LD become just another "educational fad".